IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 420 of 2005

Between:

Heeroji, Occ:Conductor
C/o. Balram, Ramanagar, Mahaboobnagar District.

..... PETITIONER

AND

The Depot Manager, A.P.S.R.T.C., Mahaboobnagar District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or directions, more in the nature of Writ of Mandamus, declaring the Office Order No. 02/95(41)/95-MBNR dated 19-10-1995 as illegal and arbitrary and set aside the same with all consequential benefits including arrears.

Counsel for the Petitioner:MR.P.GOVINDA RAJULU

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court at the admission stage made the following Order:

The petitioner was working as a Conductor in the respondent-Corporation. He was issued a charge sheet on 11.09.1995 and after receiving the explanation of the petitioner, final orders were passed on 19.10.1995 imposing the punishment of withholding one increment for a period of one year with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of annual increment, with cumulative effect is a major penalty and the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 9 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of

this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he had not been imposed penalty of reduction of one annual increment without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No costs.

20.01.2005

usd

To

1. The Depot Manager, A.P.S.R.T.C., Mahaboobnagar District.
2. Two CD copies.